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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,849	11/08/2001	Philippe Eckert	B-4379 619291-0	4047

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EXAMINER

SCUDERI, PHILIP S

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/036,849		ECKERT ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Philip S. Scuderi		2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13, 14, 16-22 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14, 16-22 and 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 06 June 2006 have been fully considered but they are not persuasive.

#### **I. 35 USC § 112, second paragraph, rejection(s)**

Applicant contends that, in light of the specification, of ordinary skill in the art would interpret the limitation “generating a response accordingly” to mean generating a response according to the content information recited in claims 1, 22, and 25-27.

Applicant appears to be reading the specification into the claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Actually, based on the language of the claim, the examiner's best guess was that “generating a response accordingly” meant generating a response in accordance with the claimed pull request. Based on the language of the claims, the examiner cannot ascertain the scope of the claims “with a reasonable degree of precision.” The determination of this type of issue necessarily depends on the facts of each particular case or application. *Chicago Pneumatic Tool Co. v. Hughes Tool Co.*, 97 F.2d 945, 38 USPQ 258 (10th Cir. 1938).

#### **II. 35 USC § 101 rejection(s)**

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Applicant contends that claims 1-11 and 20 are directed to statutory subject matter under 35 USC § 101 because “allowing transmission of a message from a first client system to a second client system is a tangible result.”

As set forth in the last Office action, these claims are not necessarily limited to tangible embodiments. They are directed software per se, which is non-statutory functional descriptive material under 35 USC § 101 (see page 50 of the Interim Guidelines).

Allowing for transmission of message from a first client system to a second client system is not a tangible result because allowing transmission of the message is not the same as necessarily transmitting the message.

### **III. 35 USC § 103(a) rejection(s)**

Regarding Postel (RFC 788, Simple Mail Transfer Protocol, November 1981, by Jonathan Postel), applicant notes that Postel’s emails are delivered using via a series of commands. However, the email corresponds to the claimed message. The commands specifically used to delivery the email are irrelevant.

Applicant’s assertion that the examiner failed to comply with 37 CFR 1.104(c)(2) for failing to “designate as nearly as practicable” the claimed “first channel adapter” and “second channel adapter” is noted.

It was the examiner’s intention to fully comply with the provision in question and believes that the last Office action did comply with the provision in question. However, for applicant’s sake, the examiner will elaborate herein.

For example, claim 1 specifies a “first channel adapter being operable to” perform the claimed “receiving” and “reading” limitations that follow. It is a reasonable interpretation of the claim that anything performing the claimed “receiving” and “reading” steps is a “first channel adapter operable to perform” those steps.

The examiner apparently wrongfully assumed that applicant would readily realize that the claims amount to nothing more than a user delivering an email to another user’s mailbox and the other user logging in and reading the delivered email from his mailbox.

Even if the claimed “adapters” were interpreted to be, for example, network interface adapters they would at least be obvious (if not inherent) because using a network adapter is an obvious way to connect to a network.

Applicant contends that the combination of Bavadekar (U.S. Pub. No. 2003/0009571) and Leymann (A Practitioners Approach to Data Federation, by Frank Leymann) would produce two queues. Even if this is the case, the two queues read on a message channel, as claimed.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention:

**Claims 1-11, 13, 14, 16-22, and 25-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

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Claims 1, 22, and 25-27 all recite the limitation “generating a response accordingly”. The metes and bounds of this limitation cannot be determined from the language of the claims because it is unclear what the response is generated according to.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1-11 and 20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.**

These claims are directed to software per se, which is non-statutory functional descriptive material.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1, 3, 4, 6-11, 17, 18, 20-22, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Postel (RFC 788, Simple Mail Transfer Protocol, November 1981, by Jonathan Postel) in view of Myers (RFC 1939, Post Office Protocol – Version 3, May 1996, by J. Myers).**

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Regarding claim 1 and 20, Postel teaches a message broker operable to:

receive a message from the first client system encoded in an Internet protocol and comprising content information and destination information (*inter alia*, page 20, user sends an email to a recipient; page 3, lines 1-3, hosts can be connected to the same transport service; pages 17-18, emails comprise data (content) and recipient (destination) information),

read the destination information from the message, and send a push request to place the message in a message channel corresponding to the destination information (page 20, mail is delivered to a recipient's mailbox (channel)).

Postel does not expressly teach how email recipients acquire the email (messages) in their mailboxes (channels). Therefore, it would have been obvious to one of ordinary skill in the art to look outside the teachings of Postel to find a method for enabling users to read their email.

In a similar art, Myers teaches a method for enabling users to read their email, comprising:

receiving a message request from a second client system encoded in an Internet protocol and comprising source information (page 4, a client login request comprising user (source) information);

reading the message request and identifying a message channel corresponding to the source information (page 4, "Once the POP3 server has determined through the use of any authentication command that the client should be given access to the appropriate maildrop, the POP3 server then acquires an exclusive-access lock on the maildrop");

sending a pull request to the message channel, and generating a response to the pull request (page 8, the RETR command).

It would have been obvious to one of ordinary skill in the art to use Myers' method for enabling users to read their email, thereby enabling Postel's recipients to acquire the email from their mailboxes, as discussed above.

Regarding claims 22, 25, 26, and 27, the claims read on a standard email system such as the system taught by Postel in view of Myers for the same reasons discussed in regards to claim 1 (the messages read on emails, the channels reads on mailboxes, etc.).

Regarding claim 3, Myers teaches generating a response comprising the content information when a message is placed in the channel (Myers, page 8, the RETR command).

Regarding claim 4, Myers teaches that the response is generated in an Internet protocol format (post office protocol).

Regarding claim 6, Postel teaches an address information store wherein channel information corresponding to at least one of the destination information and source information is stored (storing an email in a mailbox that comprises a destination address; page 20, email is delivered to a recipient's mailbox (channel); page 6, emails comprise a destination address).

Regarding claims 7 and 8, Postel and Myers do not expressly teach that the email system comprises another mailbox (i.e., another message channel) that the email recipient uses to send a response email to the first client system, wherein the response email comprises the original email. Responding to an email with a copy of an original email was well known in the art. As such, it would have been obvious to do so in the instant case so that the recipient could respond to the email (message) accordingly.

Regarding claims 9-11, Postel and Myers do not expressly teach that the messages are encoded in HTTP format or that they comprise HTTP POST or GET requests. However, the messages are merely email messages. It was well known in the art to encode email content using HTTP, to thereby make email content easier to read or more attractive. It was also generally well



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known in the art to send POST or GET URLs in the content of emails, thereby conveniently linking users to information or websites relevant to email content.

Regarding claim 17, Myers teaches that the response comprises a message and that response comprises a message, and the receiver module is operable to generate an output comprising the content information (generating a response to the POP request comprising the email content; page 8, the RETR command).

Regarding claim 21, Postel teaches that at least one client system is connected via the Internet (page 8, example 4).

**Claims 1, 2, 16, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggleston (U.S. Patent No. 5,771,353) in view of Postel (RFC 788, Simple Mail Transfer Protocol, November 1981, by Jonathan Postel) and Myers (RFC 1939, Post Office Protocol – Version 3, May 1996, by J. Myers).**

Eggleston teaches a means for retrieving email from a mailbox, wherein a client (201) pulls messages from a mailbox (channel) (231) on a server (220), receives a time out response (341) if no data exchange occurs within a predetermined time period, and retransmits a message request upon receiving the time out response (column 5, lines 17-31).

Eggleston is silent with respect to exactly how email ended up in the user's mailbox in the first place and the specifics of the protocol used to pull messages from the mailbox. Therefore, one of ordinary skill in the art would be motivated to look outside the teachings of Eggleston to find a means for sending email to a mailbox and pulling messages from the mailbox.

Postel and Myers teach such a method for sending and receiving email, as detailed in the rejection of claim 1. As such, it would have been obvious to one of ordinary skill in the art to send email to the mailbox disclosed by Eggleston using the email protocols detailed by Postel and Myers.

**Claims 5, 13, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Postel (RFC 788, Simple Mail Transfer Protocol, November 1981, by Jonathan Postel) in view of Myers (RFC 1939, Post Office Protocol – Version 3, May 1996, by J. Myers), and further in view of Birrell (U.S. Patent No. 6,029,164).**

Postel in view of Myers teach a standard email system wherein clients access their mailboxes directly using the post office protocol. However, it was well known in the art to provide a web server so that clients can access their email from alternate locations, as evidenced by Birrell (figure 2). As such, it would have been obvious to one of ordinary skill in the art to provide a such a web server for the same reasons. It was generally well known in the art to provide firewalls for reasons such as providing network security and would have been obvious to do so in the instant case for the same reasons.

**Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Postel in view of Myers, and further in view of Cobb (U.S. Patent No. 6,199,102).**

Regarding claim 18, Myers does not teach that the second client system comprises a firewall and that the message is allowed to pass through the firewall. However, firewalls were generally well known in the art. In a similar art, Cobb teaches a message filter that acts as a firewall between a recipient and a POP server (figure 2; column 6, lines 12-35). It would have been obvious to one of

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ordinary skill in the art to provide such a firewall, thereby addressing the need to filter unsolicited email (Cobb, column 2, lines 21-23).

**Claims 1, 3-8, 13, 14, 17-22, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bavadekar (U.S. Publication No. 2003/0009571) in view of Leymann (A Practitioners Approach to Data Federation, by Frank Leymann).**

Bavadekar teaches a message broker (messaging server 100A) for transmitting a messages between first and second client systems (figure 1; 0006). Bavadekar teaches that the message broker is “a modification to ... traditional client/server architecture[s]” (0006) such as “IBM’s MQSeries and iPlanet Message Queue” (0005) and that “[t]he major difference is the presence of a messaging server” (0006) between the end systems. However, Bavadekar is silent with respect to particular operational aspects of messaging server 100A (i.e., the message broker). Accordingly, one of ordinary skill in the art would be motivated to look outside the teachings of Bavadekar in order to enable the system to function properly.

Leymann teaches prior art message queuing systems that one of ordinary skill in the art would be motivated to use to fill in the gaps in Bavadekar’s system. Since, Bavadekar states that the end systems “are no longer responsible for handling communications”. Therefore, one would be motivated to place remote queues (i.e., channels) as taught by Leymann (figure 2; page 3) within the message broker itself. Since Leymann teaches that the message queuing systems use “explicit destination (i.e. a queue)” (page 2), pushes/pulls to/from the queues on message server 100A (i.e., the message broker) would clearly have to identify the source or destination queue.

It is noted that in pages 11-12 of the latest response dated 27 December 2005 applicant discusses Leyman’s message queuing systems. Applicant states that “Leyman[n] generally discloses

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message queuing systems but does not disclose a single broker facilitating communication between two entities.” The examiner agrees with this applicant’s assessment in the context of Leymann’s teachings alone. However, in combination with the message broker taught by Bavadekar, as set forth above, this would clearly not be the case. In fact, Bavadekar’s messaging server appears to be just such a single broker.

Bavadekar does not expressly disclose the API that end systems use to access the message broker. It was generally well known in the art to provide firewalls for reasons such as providing network security and would have been obvious to do so in the instant case for the same reasons. In a separate embodiment than the embodiment discussed above, Bavadekar discloses a message broker that uses a servlet API in order to enable connections to traverse a firewall (figure 2). As such, it would have been obvious to one of ordinary skill in the art to implement the message broker using such a servlet interface for the same reasons.

**Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bavadekar (U.S. Publication No. 2003/0009571) in view of Leymann (A Practitioners Approach to Data Federation, by Frank Leymann), and further in view of Eggleston (U.S. Patent No. 5,771,353).**

Bavadekar in view of Leymann does not teach generating a time out response if no message is placed in the channel within a predetermined time period or retransmitting a message request upon receiving such a response. Nonetheless, it was well known in the art to generate a time out response if no data exchange occurs on a connection within a predetermined time period and to retransmit a message request upon receiving such a response, as evidenced by Eggleston.

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Eggleston teaches a client (201) that pulls messages from a channel (231) on a server (220), receives a time out response (341) if no data exchange occurs within a predetermined time period, and retransmits a message request upon receiving the time out response (column 5, lines 17-31).

It would have been obvious to one of ordinary skill in the art to use Eggleston's time out scheme because it is an inefficient use of resources to continue querying a host when a client is no longer receiving data from a remote location (Eggleston, column 5, lines 6-8) as would be required in the system discussed above. For example, end systems pull messages from the remote channels located on the message broker.

**Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bavadekar (U.S. Publication No. 2003/0009571) in view of Leymann (A Practitioners Approach to Data Federation, by Frank Leymann), and further in view of Colyer (U.S. Patent No. 6,023,722).**

Bavadekar does not expressly teach the utilities that the messaging server is used for. Colyer teaches an environment that uses IBM MQSeries to provide load balancing between a client browser and back-end web servers, wherein the messages processed in by the MQSeries product are HTTP POST/GET requests (figure 1; column 5, line 7 – column 7, line 1). It would have been obvious to one of ordinary skill in the art to use Bavadekar's messaging server (i.e., message broker) in such an environment for the same reasons that Colyer uses the MQSeries product, such as to provide a system capable of serving a large number of requests (Colyer, column 4, lines 47-58).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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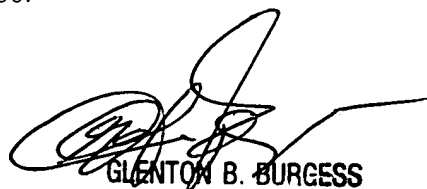
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571) 272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PS



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